

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
Deputy Attorney General  
4 State Bar No. 117576  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5337  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2013-465*

12 **WINSOME MADENA McNEISH**

**A C C U S A T I O N**

13 9 Dodd Street, Apt. A2  
Bloomfield, NJ 07003

14 Registered Nurse License No. 764895

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 2. On or about December 30, 2009, the Board issued Registered Nurse License Number  
23 764895 to Winsome Madena McNeish ("Respondent"). Respondent's registered nurse license  
24 will expire on April 30, 2013, unless renewed.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

28 ///

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing  
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision  
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed  
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct . . .

11 . . . .

12 (4) Denial of licensure, revocation, suspension, restriction, or any other  
13 disciplinary action against a health care professional license or certificate by another  
14 state or territory of the United States, by any other government agency, or by another  
California health care professional licensing board. A certified copy of the decision  
or judgment shall be conclusive evidence of that action . . .

### 15 COST RECOVERY

16 6. Code section 125.3 provides, in pertinent part, that the Board may request the  
17 administrative law judge to direct a licentiate found to have committed a violation or violations of  
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
19 enforcement of the case.

### 20 CAUSE FOR DISCIPLINE

#### 21 **(Disciplinary Action by the New Jersey State Board of Nursing)**

22 7. Respondent is subject to disciplinary action pursuant to Code sections 2750 and 2761,  
23 subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the  
24 New Jersey State Board of Nursing ("New Jersey Board"), as follows: On or about December 7,  
25 2011, pursuant to the Final Order of Discipline in the disciplinary proceeding titled "*In the*  
26 *Matter of the Suspension or Revocation of the License of Winsome Madena McNeish, RN*", the  
27 New Jersey Board suspended Respondent's license to practice nursing in the state of New Jersey.  
28 The Board further ordered that Respondent be prohibited from applying for reinstatement of her

1 license until such time as she demonstrates that she has undergone a comprehensive mental health  
2 evaluation under the auspices of RAMP and obtains a writing from RAMP indicating RAMP's  
3 support of her return to practice, that Respondent is fit and competent to practice, and specifying  
4 the limitations or conditions, if any, under which such return to practice should take place. The  
5 Board found that Respondent's sworn testimony at an investigative inquiry in September 2010  
6 and written statement under oath made in September 2009 demonstrates that she is incapable, for  
7 medical or other good cause, of discharging the functions of a licensee in a manner consistent  
8 with the public's health, safety and welfare within the intendment of N.J.S.A. 45:1-21(i). A true  
9 and correct copy of the Final Order of Discipline is attached as **Exhibit A** and incorporated  
10 herein. The Board's order is based on the following Findings of Fact:

11 a. Respondent was licensed as a registered professional nurse in the state of New Jersey  
12 on April 8, 2003, and had been a licensee at all relevant times to the New Jersey Board  
13 proceeding.

14 b. The Board received information indicating that Respondent filed a complaint against  
15 a social worker alleging that the social worker, who provided mental health services to  
16 Respondent from November 2008 to December 2008, arranged to have Respondent raped.

17 c. A Demand for Statement in Writing Under Oath was issued to Respondent on August  
18 20, 2009. Respondent timely responded on September 1, 2009, and advised that she was  
19 undergoing mental health treatment and had been recently hospitalized for, or diagnosed with, a  
20 variety of serious mental health conditions. Respondent also maintained that she had been raped  
21 on multiple occasions - in the hospital, at her home, by police officers, a car dealer, the  
22 superintendent of the building in which she lives, and two men from Balley's health club (as  
23 allegedly arranged by the social worker). When providing her employment history, Respondent  
24 listed 16 different employers within the three year span of 2006 to 2009, when she last worked.

25 d. On September 21, 2010, Respondent appeared before a committee of the New Jersey  
26 Board to give testimony at an investigative inquiry. Respondent testified and believed that she  
27 had been raped by the President of the United States allegedly as a result of her building  
28 superintendent letting the President into her apartment.

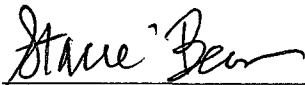
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PRAYER**

**WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 764895, issued to Winsome Madena McNeish;
2. Ordering Winsome Madena McNeish to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

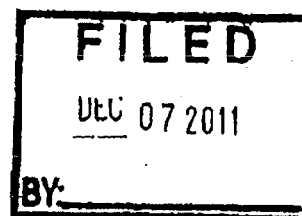
DATED: DECEMBER 8, 2012

  
for LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

**EXHIBIT A**

**Final Order of Discipline - New Jersey State Board of Nursing**

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Division of Law  
124 Halsey Street, 5th Floor  
P.O. Box 45029  
Newark, New Jersey 07101  
Attorney for the Board of Nursing



STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF NURSING

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
WINSOME MADENA McNEISH, RN	:	
License No. 26NR09387200	:	FINAL ORDER
	:	OF DISCIPLINE
TO PRACTICE NURSING	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Nursing (the "Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Winsome Madena McNeish ("Respondent") was licensed as a registered professional nurse in the State of New Jersey on April 8, 2003 and has been a licensee at all relevant times.
2. The Board received information indicating that Respondent filed a complaint against a social worker alleging that the social worker, who provided mental health services to Respondent from November 2008 to December 2008, arranged to have Respondent raped.
3. A Demand for Statement in Writing Under Oath was issued to Respondent on August 20, 2009. Respondent timely responded on September 1, 2009 and advised that she was undergoing mental health

treatment and had been recently hospitalized for, or diagnosed with, a variety of serious mental health conditions, which, for privacy concerns, are not detailed here. Respondent also maintained that she had been raped on multiple occasions - in the hospital, at her home, by police officers, a car dealer, the superintendent of the building in which she lives, and two men from Bally's health club (as arranged by the social worker). When providing her employment history, Respondent listed sixteen different employers within the three year span of 2006 - 2009, when she last worked.

4. On September 21, 2010, Respondent appeared before a committee of the Board to give testimony at an investigative inquiry. Respondent testified and believed that she had been raped by the President of the United States. Respondent testified that the rape occurred when the superintendent of her building let the President into her apartment.

#### CONCLUSIONS OF LAW

The Board finds that Respondent's testimony at the September 2010 investigative inquiry and written statement under oath made in September 2009 demonstrates that she is incapable, for medical or other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare within the intendment of N.J.S.A. 45:1-21(i).

#### DISCUSSION

Based on the foregoing findings and conclusions, a

Provisional Order of Discipline (POD) was entered by this Board on July 11, 2011 provisionally suspending the Respondent's license to practice as a nurse and prohibiting application for reinstatement until such time as Respondent demonstrates that she has undergone a comprehensive mental health evaluation under the auspices of RAMP and obtains a writing from RAMP indicating RAMP's support of her return to practice. A copy of the Order was forwarded to Respondent by certified and regular mail at her address of record. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless Respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefor.

Respondent timely replied to the Provisional Order and provided a letters from her treating physician who opined that she was fit to practice. In a separate response submitted by Respondent's attorney, it was alleged that the Board was relying on inadmissible hearsay, that the incidents occurred too long ago to be an accurate reflection of Respondent's present day condition, and that the provisional order should not have been entered without Board review of a full and complete set of medical records and the



opinion of a competent practitioner in the mental health field.

The Board notes that the findings of fact in this matter are based upon Respondent's own sworn testimony and her certified answers to a Demand for Statement in Writing Under Oath. Although the Board requested Respondent undergo a mental health evaluation under the auspices of RAMP in May 2010, Respondent only recently agreed to do so in October 2011, after the Provisional Order was filed. The two letters from Respondent's treating physician are nearly identical and only contain three short conclusory statements. The letters do not contain any support for the conclusions. Respondent has further failed to provide the Board with medical records despite numerous requests for same.

Respondent's testimony regarding her alleged rapes, including those allegedly perpetrated by the President of the United States and arranged by her social worker, provide reason for concern for her mental state. Consumers trust the Board to protect the public's health safety and welfare by licensing only those nurses who are mentally stable and fit to practice.

The Board considered all available materials, and determined that given the nature of Respondent's conduct and her consistent refusal to cooperate with the Board's request that she undergo a mental health evaluation and inasmuch as no discrepancies have been raised with respect to the findings of fact and conclusions of law of the Provisional Order, the Board determined that the Provisional Order should be made final without modification.

ACCORDINGLY, IT IS on this 7<sup>th</sup> day of December, 2011,

ORDERED that:

1. Respondent's license to practice nursing be and hereby is suspended pursuant to N.J.S.A. 45:1-21(I).

2. Respondent shall provisionally refrain from practicing nursing and shall not represent herself as a registered professional nurse until such time as her license is reinstated. Any practice in this State prior to reinstatement shall constitute grounds for a charge of unlicensed practice.

3. The Board will not entertain an application for reinstatement from Respondent unless and until Respondent demonstrates that she has undergone a comprehensive mental health evaluation under the auspices of RAMP and obtains a writing from RAMP indicating RAMP's support of her return to practice, that Respondent is fit and competent to practice, and specifying the limitations or conditions, if any, under which such return to practice should take place.

NEW JERSEY STATE BOARD OF NURSING

By: Patricia Murphy, PhD, APRN, C  
Patricia Murphy, PhD, APRN, C  
Board President